

One-Year Private Probation. Board Case No. 14, 2002. Date of Sanction: July 17, 2002.

A panel of the Preliminary Review Committee ("PRC") offered the sanction of a private probation to an attorney in Board Case No. 14, 2002, for violation of Rules 1.3, 1.4(b) and 1.15(a) of the Delaware Lawyers' Rules of Professional Conduct ("Rules"). The attorney consented to the imposition of the private probation. Pursuant to Rule 9(a)(4)(D) of the Delaware Lawyers' Rules of Disciplinary Procedure ("Procedural Rules"), the attorney did not contest the findings of the PRC that there was probable cause that the attorney had engaged in professional misconduct. If the attorney is not subsequently found by a panel of the PRC to have engaged in professional misconduct within the one year probationary period, the probation will be removed from the attorney's formal disciplinary record and cannot be used in any subsequent disciplinary proceeding.

This disciplinary matter arose in connection with the attorney's representation of a client in an adoption matter. The private admonition is based upon the following findings by the PRC:

(1) The attorney violated Rule 1.3 by failing to file the pleadings necessary to certify the validity of the foreign adoption decrees for the children adopted by his client in Russia. The attorney failed to act with reasonable diligence and promptness: he was retained in January 2001, but did not file the petitions until June 2001; once the petitions were filed, the Family Court noted deficiencies, but he failed to correct the deficiencies in a timely manner or to respond to Court inquiries and the petitions were dismissed as a result; he took no further action until December 2001.

(2) The attorney violated Rule 1.4(b) by failing to explain matters to his client to the extent reasonably necessary to permit the client to make informed decisions regarding the representation. During the period from January through June 2001, the attorney failed to inform his client that he had not yet even filed the necessary petitions to certify the foreign adoption decrees. In or about July and August 2001, the attorney failed to inform his client that his filings on her behalf had been deficient. During the period from August 2001 through December 2001, the attorney failed to inform his client that the petitions had been dismissed.

(3) The attorney violated Rule 1.15(a) by failing to appropriately safeguard the property of his client including original foreign adoption certificates, passports, citizenship certificates, birth certificates and documents related to court proceedings.

In mitigation, the panel considered that the attorney did not have a prior disciplinary record; made full and free disclosure to the disciplinary authorities and had a cooperative attitude; made prompt efforts to eliminate the deficiencies; had inexperience in the practice of law; and expressed remorse for his misconduct.

The PRC determined that the private probation should be subject to three conditions: (1) pursuant to Procedural Rule 27, that the attorney reimburse the ODC for the costs of its investigation and that the attorney reimburse the Lawyers' Fund for Client Protection for its investigatory audit; (2) that the attorney provide monthly, written self-reports to the ODC detailing his diligence in meeting court deadlines and the expectations of his clients; and (3) that the attorney meet on at least a monthly basis with a member of the Professional Guidance Committee who shall provide quarterly, written reports to the ODC. Failure to satisfy these conditions may result in reconsideration of this

matter and prosecution of formal charges before the Board.